

Venice / Bliss, Inc. & GMI Corp.
Madison County
LPC 1191050004

IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff,)

-v-)

JERRY RUSSELL BLISS, INC., a)
Missouri Corporation, and)
GMI CORPORATION, a)
Missouri Corporation,)

Defendants.)

COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTION
AND OTHER RELIEF

Environmental Protection Agency

NOW COMES Plaintiff, PEOPLE OF THE STATE OF ILLINOIS,
by Neil F. Hartigan, Attorney General of the State of Illinois,
and complaining of Defendants, JERRY RUSSELL BLISS, INC., and
GMI CORPORATION, states as follows:

COUNT I

1. This action is brought pursuant to the statutory
authority of the Attorney General, Ill. Rev. Stat. 1985, ch.
111 1/2, pars. 1042 and 1043(a), to institute civil actions to
enjoin violations of the Environmental Protection Act, Ill.
Rev. Stat. 1985, ch. 111 1/2, par. 1001, et seq. (hereinafter
"the Act").

2. Defendant, Jerry Russell Bliss, Inc. (hereafter
"JRB"), is a Missouri corporation not licensed to do business
in the State of Illinois with offices at 149 Strecker Road,
Ballwin, Missouri.

3. Defendant, GMI Corporation (hereafter "GMI"), is
a Missouri Corporation, registered to do business in the State
of Illinois with offices at 1226 Bissell Street, Venice,
Madison County, Illinois.

EPA Region 5 Records Ctr.



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4. At all times pertinent to this Complaint, GMI owned and continues to own certain property consisting of approximately 15 acres of land located at 1226 Bissell Street, Venice, Madison County, Illinois (hereafter "the site").

5. At all times pertinent to this Complaint, JRB owned and, to the best of Plaintiff's knowledge and belief, continues to own two storage tanks with an approximate capacity of 92,000 gallons each. During the period of May 17, 1982 to the present, on occasions better known only to JRB & GMI, JRB has placed material in or removed material from the two tanks.

6. At all times pertinent to this Complaint, the two tanks were, and are, located at the site on property leased from GMI.

7. At all times pertinent to this Complaint and continuing to the present. These tanks contained waste materials including oils and solvents and accumulated sludges.

8. Section 21(f) of the Act, Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1021(f), and 35 Ill. Adm. Code 703.121 prohibit the storage or disposal of hazardous wastes without a permit or in violation of any regulation or standard adopted by the Illinois Pollution Control Board (hereafter "the Board").

9. Section 3(j) of the Act defines a hazardous waste as any waste which poses "a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed . . ." and which has been listed or identified as hazardous pursuant to Board regulations. Board regulations list Benzene (Hazardous Waste No. U019), Naphthalene (Hazardous

Waste No. 6165), and Trichloroethylene (Hazardous Waste No. U228) as toxic hazardous wastes when discarded. 35 Ill. Adm. Code 721.103(a)(2)(B) and 721.133(f). Board regulations identify a waste as hazardous if it contains a hazardous waste listed in 35 Ill. Adm. Code 721.130-133. Board regulations identify a waste as hazardous if it exhibits the characteristic of ignitability.

10. 35 Ill. Adm. Code Parts 724 and 725 establishes minimum standards for the management of hazardous waste including measures for groundwater protection and addressing releases of hazardous materials.

11. The wastes and accumulated sludges have served their original intended use and are sometimes discarded. Since May 17, 1980 and continuing to the present, such wastes and accumulated sludges have been stored in the tanks.

12. Since May 17, 1982 and continuing to the present, the wastes and accumulated sludges in the tanks contain concentrations of Benzene, Naphthalene, and Trichlorethylene.

13. Since May 17, 1982 and continuing to the present, the wastes and accumulated sludges in the tanks also exhibit the characteristic of ignitability.

14. Since May 17, 1982 and continuing to the present, wastes from the tanks have been discharged, deposited, dumped, and/or spilled onto the ground in the vicinity of the tank thereby entering the environment.

15. Since May 17, 1982 and continuing to the present, the manhole openings on top of the tanks have been left open, allowing wastes from the tanks to enter the environment.

16. Since May 17, 1982 and continuing to the present, JRB has not been issued a permit to store hazardous wastes in the tanks at the site or to dispose of hazardous wastes at the site.

17. Since May 17, 1982 and continuing to the present, GMI has not been issued a permit to store hazardous wastes in the tanks at the site or to dispose of hazardous wastes at the site.

18. That unless the Defendants are restrained from further storage and/or disposal of hazardous waste without the proper permits, continuing violations of the Act and Board regulations will occur and the purposes of the Act will be defeated by such continued actions by the Defendants.

19. The Defendants have failed to comply with the standards set forth in 35 Ill. Adm. Code Parts 724 and 725 from May 17, 1982 and continuing to the present.

20. That unless the Defendants are restrained from further storage or disposal of hazardous waste without complying with the standards of 35 Ill. Adm. Code Parts 724 and 725, continuing violations of the Act and Board regulations will occur and the purposes of the Act will be defeated by such continued actions by the Defendants.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that the Court grant the following relief:

A. Enter an ex parte order pursuant to Section 43(a) of the Act, Ill. Rev. Stat., 1985, ch. 111 1/2, par. 1043(a), securing the site, enjoining the Defendants from removing materials from the tanks and from placing additional materials

in the tanks, and setting a hearing on a Preliminary Injunction within three (3) working days of entry of the ex parte order;

B. Enter a Preliminary Injunction against the Defendants securing the site, prohibiting the removal of materials from the tanks and placement of materials in the tanks by Defendants during the pendency of this suit, and allowing sampling of the contents of the tanks and of the area in the vicinity of the tanks by the Illinois Environmental Protection Agency;

C. Enter a Permanent Injunction enjoining Defendants from violating Section 21(f) of the Act and 35 Ill. Adm. Code Parts 724 and 725 and Section 703.121;

D. Impose upon each Defendant a monetary penalty of not to exceed twenty-five thousand dollars (\$25,000.00) for each violation alleged herein and an additional penalty of not to exceed twenty-five thousand dollars (\$25,000.00) for each day during which said violations shall have continued.

E. Pursuant to Section 42(f) of the Act, Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1042(f), award the costs of this proceeding, including reasonable attorney's fees and costs of expert witnesses and consultants, to the Attorney General; and

F. Grant to Plaintiff such other relief as this Court shall deem appropriate under the circumstances.

COUNT II

1-7. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 7 of Count I as Paragraphs 1 through 7 of this Count II.

8. Section 12(d) of the Act prohibits the deposit of

~~contaminants~~ upon the ground in a manner which may lead to ~~their entry~~ into surface water or groundwater.

9 The materials in the tank contain many kinds of organic chemical compounds including Benzene, Naphthalene, and Trichlorethylene. The latter have been listed as toxic hazardous wastes in Board regulations, 35 Ill. Adm. Code 721.133(f)

10. From 1979 and continuing to the present, on occasions better known only to Defendants, Defendants have caused or ~~allowed~~ materials from the tanks to be discharged or deposited on the ground in such a manner as to cause the ground ~~in the vicinity~~ of the tanks to become contaminated with those materials and their constituents.

11. The presence of these materials and their constituents in the ground around the tanks creates the potential that groundwater and surface waters may become contaminated with those materials or their constituents. The presence of these materials or their constituents are likely to create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

12. That unless Defendants are restrained from further contamination of the ground in the vicinity of these tanks, continuing violations of Section 12(d) of the Act will continue and the purposes of the Act will be defeated by such continued actions by the Defendants.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that the Court grant the following releif:

A. Enter an ex parte order, pursuant to Section 43(a) of the Act, Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1043(a), securing the site, enjoining the Defendants from removing materials from the tanks and from placing additional materials in the tanks, and setting a hearing on a Preliminary Injunction within three (3) working days of entry of the ex parte order;

B. Enter a Preliminary Injunction against the Defendants securing the site, prohibiting the removal of materials from the tanks or placement of materials in the tanks by Defendants during the pendency of this suit, and allowing the sampling of the soil, surface water, and groundwater in the vicinity of the tanks by the Illinois Environmental Protection Agency;

C. Enter a Permanent Injunction enjoining Defendants from violating Section 12(d) of the Act;

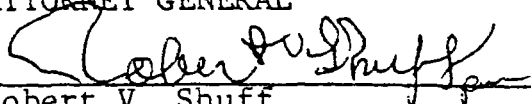
D. Impose upon each Defendant a monetary penalty of not to exceed ten thousand dollars \$10,000.00 for each violation alleged herein and an additional penalty of \$1,000.00 per day for each day such violations shall have continued;

E. Pursuant to Section 42(f) of the Act, Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1042(f), award the costs of this proceeding, including reasonable attorney's fees and costs of

~~expert witnesses~~ and consultants, to the Attorney General; and
~~Grant to Plaintiff~~ such other relief as This
Court shall deem appropriate under the circumstances.

PEOPLE OF THE STATE OF ILLINOIS

BY: NEIL F. HARTIGAN
ATTORNEY GENERAL

BY: 
Robert V. Shuff
First Assistant Attorney General

OF COUNSEL:

~~Dennis Oracy~~
Assistant Attorney General
Granite City Regional Office
1314 Niedringhaus
Granite City, IL 62040
618/877-0404

James L. Morgan
Assistant Attorney General
Environmental Control Division
500 South Second Street
Springfield, IL 62706
217/782-9032

DATED: July 9, 1985

STATE OF ILLINOIS)
) SS.
COUNTY OF MADISON)

VERIFICATION

JAY EVANS on oath states that he is a Hazardous Waste Investigator for the Illinois Attorney General's Office and that he knows the facts set forth in the foregoing answer are true; and those statements based on want of knowledge are true.

Jay Evans
Jay Evans

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 9th day of July, 1985

[Signature]
Notary Public
Comm Exp. Sept. 11, 1987



IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff,)

-v-)

JERRY RUSSELL BLISS, INC., a)
Missouri Corporation, and)
GMI CORPORATION, a)
Missouri Corporation,)

Defendants.)

NO. 85-64-184

MOTION FOR IMMEDIATE INJUNCTION PURSUANT TO SECTION 43(a)
OF THE ENVIRONMENTAL PROTECTION ACT

NOW COMES Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, by Neil F. Hartigan, Attorney General of the State of Illinois, and pursuant to the Section 43(a) of the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1043, moves this Court to issue, ex parte, an order for an immediate Injunction against Defendants, JERRY RUSSELL BLISS, INC., and GMI CORPORATION, to halt activities causing or contributing to circumstances of substantial danger to the environment and the public health and welfare, and in support of this Motion states as follows:

1. Plaintiff has filed a Complaint charging Defendants with violations of Sections 12(d) and 21(f) of the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1012(d) and 1021(f) (hereafter "the Act"), and 35 Ill. Adm. Code Parts 724 and 725 and Section 703.121 of the Pollution Control Board's regulations;

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2. Section 43(a) of the Act provides:

In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity, causing or contributing to the danger or to require such other action as may be necessary. The Court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of the injunction.

Ill. Rev. Stat. 1985, ch. 111 1/2, §1043(a).

3. These violations pose a substantial danger to the environment and the public health and welfare since they involve the improper management and handling of toxic hazardous wastes and ignitable hazardous wastes in tanks owned by Jerry Russell Bliss, Inc., on property owned by GMI. As demonstrated by Plaintiff's verified Complaint, said improper management and handling includes:

- a. Allowing waste materials to be dumped, spilled, deposited or dumped on the ground around the tanks thereby contaminating that ground; and
- b. Allowing the manhole openings to the tanks are allowed to remain open, thereby exposing the contents of the tanks to the environment.

WHEREFORE, Plaintiff prays that this Court immediately
~~enter an~~ ex parte order:

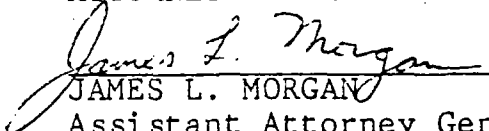
- A. Securing and restricting access to the site at
1226 Bissell Avenue, Venice, Madison County,
Illinois;
- B. Enjoining Defendants from removing the materials
from the tanks or placing additional materials,
in those tanks; and
- C. Setting a hearing on Plaintiff's Motion for
Preliminary Injunction within three (3) days of
entry of this ex parte order.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

NEIL F. HARTIGAN
ATTORNEY GENERAL

BY:


JAMES L. MORGAN
Assistant Attorney General
Environmental Control Division

500 South Second St.
Springfield, IL 62706
217/782-9031

OF COUNSEL
Dennis Orsey
Assistant Attorney General
Granite City Regional Office
1314 Niedringhaus
Granite City, IL 62040
618/877-0404

DATED: July 7, 1985

STATE OF ILLINOIS
COUNTY OF MADISON

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THIRD JUDICIAL CIRCUIT
JACKSON COUNTY, ILLINOIS

AFFIDAVIT

JAY EVANS, being duly sworn and upon his oath, deposes and states:

1. He is employed by the Illinois Attorney General's Office as a Hazardous Waste Investigator.

2. He was formerly employed as an Inspector by the Illinois Environmental Protection Agency until January 13, 1984.

3. In the course of his duties as an Agency inspector, he inspected the GMI Corporation property in Venice, Illinois, where the tanks owned by Jerry Russell Bliss, Inc., are located.

4. On June 8, 9, and 13, 1983, he participated in an Agency inspection of the site. During those inspections, he also participated in the sampling of the contents of the tanks and the soils around the tanks.

5. The tanks were found to contain oils, solvents, and sludges. Soil around the tanks appeared to be oil stained and contain other organic matter.

6. The samples were collected and forwarded to the Agency Laboratory in accordance with standard Agency procedures. Results of the sampling were returned to his office in accordance with standard Agency procedure.

7. The contents of the tanks and surrounding soils were determined to be hazardous wastes under 35 Ill. Adm. Code Sections 721.130 because they contained Benzene, Naphthalene, and Trichlorethylene (listed hazardous wastes) and were also determined to be ignitable (another hazardous waste characteristic).

8. The condition of the soils around the tanks indicated that materials from the tanks had been spilled or discharged onto the ground.

9. The manhole openings on top of the tanks were opened, exposing the contents of the tanks to the environment.

10. During his inspections of the site, he determined that there was no groundwater monitoring program in place, no inspections or records of inspections were made, no manifests were kept, proper security and signs were not provided, and no contingency plan had been prepared.

11. In conjunction with his inspections of the site, he reviewed the Agency's files and determined that neither GMI Corporation nor Jerry Russell Bliss, Inc., had applied for or obtained a RCRA permit for the site.

12. In the course of his duties with the Illinois Attorney General's office, he has visited the site and has determined that the tanks are still in place. He has also reviewed the Agency's files and determined that neither GMI Corporation nor Jerry Russell Bliss, Inc., have applied for or

ained a RCRA permit to own or operate the site as a
hazardous waste management facility or to remove the materials
from the tanks.

FURTHER DEPONENT SAYETH NOT.

Jay Evans
JAY EVANS

SUBSCRIBED AND SWORN TO
BEFORE ME, this 9TH
day of July, 1985.

Dennis J. Oley
Notary Public

COMM. EXP.

SEPT. 11, 1987

Esatz

IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

JUL 15 1985

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PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff,)

-v-)

JERRY RUSSELL BLISS, INC., a)
Missouri Corporation, and)
GMI CORPORATION, a)
Missouri Corporation,)

Defendants.)

NO. 85-CH-184

ORDER GRANTING IMMEDIATE INJUNCTION

THIS CAUSE coming on to be heard on July 9, 1985,
on the Plaintiff's Motion for Immediate Injunction Pursuant to
Section 43(a) of the Environmental Act and Plaintiff having
appeared by Assistant Attorney General James Morgan; and the
Court having considered the pleadings and arguments of the
Plaintiff, and being fully advised in the premises FINDS:

1. That it has jurisdiction of the subject matter
hereof and the parties hereto;
2. That Plaintiff's verified Complaint and attached
affidavit demonstrate that the violations alleged
pose a substantial danger to the environment and
the public health and welfare; and
3. That an immediate Injunction issued ex parte is
necessary.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Plaintiff's Motion for Immediate Injunction is
granted ex parte;

2. The site at 1228 ~~South~~ ^{11 Avenue} ~~County~~, is hereby ~~ordered~~ and no access shall be allowed to the tank without permission of this Court;
3. Defendants are hereby enjoined from removing any of the contents of the tanks or adding any material thereto;
4. A hearing on Plaintiff's Motion for Preliminary Injunction is set for 10 A.M., July 12, 1985, in Courtroom , Madison County Courthouse; and
5. Plaintiff shall give notice of this Order and the Motion for Preliminary Injunction to the Defendants, forthwith.

ENTER: _____

Judge

DATED: _____

PRanck
July 9, 1985 10:15 A.M.

... Venice,